

<b>USDC SDNY</b> <b>DOCUMENT</b> <b>ELECTRONICALLY FILED</b> DOC #: DATE FILED: <u>2/23/09</u>
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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BANK OF COMMUNICATIONS,  
NEW YORK BRANCH,

Plaintiff,

- against -

OCEAN DEVELOPMENT AMERICA,  
INC., HONGMING LI a/k/a MICHAEL  
LI and XIAOMING ZHANG,

Defendants.  
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07 Civ. 4628 (TPG)

**OPINION**

Plaintiff has moved for sanctions against the two individual defendants. The court has received briefs and has discussed the issue with counsel.

The court believes that the two defendants acted in such a way as to cause plaintiff excessive legal expense. The circumstances led the court to enter a default judgment against these defendants, only to have the defendants come into court and indicate, at long last, their desire and willingness to defend the action. All along, whatever defenses they had could have been presented, whether related to jurisdiction or on the merits. But there was no reasonably prompt assertion of the defenses.


The court will award sanctions, and the question is in what amount. Although plaintiff has incurred excessive legal expense, it is surely the case that not all the services performed by plaintiff's counsel can be termed

excessive. The court awards \$5,000.

The defendants are directed to remit \$5,000 to plaintiff, and after such remission is made, the court will vacate the default judgment.

SO ORDERED.

Dated: New York, New York  
February 23, 2009

  
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THOMAS P. GRIESA  
U.S.D.J.